

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 05-10059-DPW
)	
CHAD BENJAMIN,)	
Defendant)	

**GOVERNMENT'S MOTION FOR ORDER ESTABLISHING THAT THE
30-DAY PERIOD FOR THE GOVERNMENT TO FILE A NOTICE OF
APPEAL FROM THE COURT'S 1/16/07 ORAL SUPPRESSION ORDER OR
FOR FILING OF A TIMELY MOTION FOR RECONSIDERATION WILL NOT
BEGIN UNTIL THE COURT ISSUES ITS WRITTEN OPINION OR FINALLY
RULES ON THE GOVERNMENT'S MOTION FOR RECONSIDERATION**

The government respectfully files this motion regarding the time period during which it must file a notice of appeal from the Court's January 16, 2007 oral suppression order, which order excluded the admission of the firearm and ammunition at trial. (Woodlock, J.). At the time the Court entered its order on the docket, it stated that it would issue a memorandum within the next two weeks more fully explaining its determination. As of this date, the issuance of said memorandum is still pending. In the normal course, the government's notice of appeal would be due 30 days from the date the Court granted the motion to suppress (ie. on or before February 15, 2007) or, if the government filed a timely but unsuccessful motion for reconsideration, 30 days from the Court's ruling on that motion. The government cannot assess whether it should file a motion to reconsider until it receives the Court's written order.

Thus, the government requests that the Court enter an order ruling that its January 16, 2007 suppression order is not final and that the government will have 30 days from the date the Court further rules on this issue [namely, until the Court issues its written opinion or rules on any timely-filed motion for reconsideration] within which to file a timely notice of appeal.

For obvious reasons, the government requests that the Court enter its on this motion on or before February 9, 2007.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Antoinette E.M. Leoney
ANTOINETTE E.M. LEONEY
Assistant U.S. Attorney

Certificate of Service

I hereby certify that on January 25, 2007, this Notice of Appeal filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Antoinette E.M. Leoney
ANTOINETTE E.M. LEONEY
Assistant U.S. Attorney